



Education, Welfare Reform & Children

A Special Report Prepared by:

Democratic Policy Committee

Democratic Steering and Coordination Committee

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Education

Indian schools are a cornerstone of the federal trust responsibility. Native American students are guaranteed the right to an education by treaties, executive orders, and statutes. Indian education encompasses tribally-operated Head Start programs, Bureau of Indian Affairs (BIA) schools, private and parochial schools, public schools on Indian lands, urban Indian learning centers, and tribal colleges. U.S. educational policy in Indian country has had a troubled past, but is now moving in the right direction, with tribal educators assuming more control of Indian education. Senate Democrats support efforts to promote culturally appropriate, lifelong learning opportunities, to provide safe, secure schools, and to encourage the development of quality Indian educators to teach on reservations and in urban communities.

Elementary and Secondary Education No Child Left Behind Act. The President signed the *No Child Left Behind Act* (NCLB) in January 2002. NCLB extended the promise of standards-based education reform to all children. The goal of NCLB was to set higher expectations for all children, and demand better results from all schools, including BIA schools. In exchange, the federal government was to provide schools and communities the resources needed to meet the new standards. The President has broken his promise to all of America's children by underfunding NCLB. The President proposes to underfund NCLB by \$9.4 billion for the next fiscal year. Since he signed NCLB, President Bush has proposed three federal budgets, which would have shortchanged NCLB by a total of \$26.5 billion.

Senate Democrats have tried to remedy the President's continual underfunding of NCLB by proposing an amendment to the Republican Budget resolution to fully fund these important programs. The Murray-Kennedy amendment would have provided the resources to:

- Improve training for 200,000 teachers
- Hire an additional 100,000 teachers
- Fund after-school care for an additional 1.4 million children
- Help improve over 25,000 schools that are not making adequate progress.

Unfortunately, Republicans defeated this amendment on March 10, 2004.

NCLB Implementation in Indian Country. Most Native American children attend public schools, but a substantial number attend the 185 schools operated by the Bureau of Indian Affairs. Schools funded by the BIA have some of the lowest levels of student achievement in the country. Public schools that serve significant numbers of Indian students are likely to receive funding through the Department of Education's Impact Aid program. BIA schools are primarily funded through the Department of the Interior, although they receive some funding through set-asides in programs administered by the Department of Education. The most important of these is Title I of NCLB, which provides funding for the most disadvantaged students.

Children in both public and BIA schools are subject to the requirements imposed under NCLB. Public schools are responsible for aligning their curricula, training their teachers, and administering state-designed tests to measure achievement. The BIA, in consultation with tribes, is responsible for setting goals to achieve Adequate Yearly Progress as required under the law. To meet Adequate Yearly Progress (AYP) requirements in reading and math, schools must have a certain percentage of students at the proficient and advanced levels.

Under NCLB, all public and BIA students in the United States must be proficient in reading and math by 2014. To achieve this goal, schools must work to close achievement gaps and make sure all students, including ethnic groups, economically disadvantaged students, students with disabilities, and limited English-proficient students, achieve academic proficiency. In addition to the academic requirements, each elementary and middle school must maintain a minimum attendance rate of 94 percent and each high school must maintain a minimum graduation rate of 90 percent. Schools and districts not meeting these goals are placed on alert status and schools or districts failing to meet the objectives for two consecutive years are identified for school improvement.

Many schools served by the BIA that have been labeled as “needing improvement” have also found that the additional funding and technical assistance to help them correct their problems and help their children achieve have been slow to materialize. Indian educators report that guidance regarding the development and implementation of improvement plans has often been unclear and inconsistent. In addition, funding from the Department of Education has been late. In fact, this year, many schools received their Title I funding as late as January, more than halfway through the school year. Delays of this kind make it even more difficult for schools to provide quality services.

Democrats recognize the great need for educational reform in general, especially in Indian country. However, to be effective, such reforms should be guided and directed by Indian educators. Indian educators need the flexibility to design and implement improvements, standards, and strategies that fit the unique educational needs of Indian students. Additional research is also needed about culturally sensitive educational strategies and techniques that are effective in Indian communities.

School Construction. One of the main obstacles to Indian education is the lack of adequate funds to construct new schools and repair those already established. Too many BIA schools lack adequate facilities. Many have actually been declared unsafe. Because of insufficient funding, however, schools that urgently need to be repaired, upgraded or even replaced are placed on a priority list and it can take more than 10 years for many schools to be funded. The BIA estimates that the backlog in education facility repair and replacement construction is \$1 billion. In addition, the school replacement application and construction processes are lengthy and cumbersome, diverting already limited resources away from tribal schools.

Despite this, the President’s 2005 budget actually proposed to cut funding for BIA school construction. Supporting these schools is a federal trust obligation. Senator Johnson, joined by Senators Daschle and Murray, introduced the *Indian School Construction Act* (S. 594) to provide \$200 million in school construction bonds to help finance school replacement projects at schools funded or run by the BIA. Purchasers of the bonds would receive a federal tax credit in lieu of interest on the bond. This mechanism has been used successfully to support school renovation in the Qualified Zone Academy bond program.

Senator Johnson’s bill also would create a \$30 million federal escrow account to provide funds, managed by experienced bond trustees, to be invested to pay the principal on tribal school construction bonds. This provision would not only help reduce the BIA’s construction backlog, but it would also encourage financial institutions to establish relationships with tribes. Senators Daschle, Johnson, and Murray worked with the Indian Affairs Committee to include the bill in the Foreign Sales Corporation bill (FSC), S.1637, which passed the Senate on May 11, 2004.

Teacher Qualifications and Training. The *No Child Left Behind Act* requires that by the end of the 2005-2006 school year all newly hired teachers and those teaching core subjects be “highly qualified.” This means that public elementary and secondary school teachers have obtained full state certification or passed the state teacher licensing examination; hold a license to teach in the state; and have not had a certificate or license requirement waived under emergency, temporary or provisional conditions.

These requirements have the potential to place an undue financial burden on teachers and districts. Many schools, particularly smaller districts and those in remote, reservation areas, are concerned that they will have a difficult time attracting and retaining highly qualified teachers, especially at the high school level, where teachers often have to teach several different subjects. NCLB does provide districts funding to recruit and train teachers, however, the President has proposed to freeze those funds in his budget this year.

Impact Aid and Public Schools on Indian Lands. Impact Aid provides resources to public schools whose tax base is reduced because of federal activities, including the presence of an Indian Reservation. (BIA-funded schools do not receive Impact Aid.) Many public school districts residing on Indian lands and serving a significant number of Native American students receive much-needed assistance through this program. Although funds have been restored to this program in recent years, it is still significantly underfunded.

Reorganization of the Bureau of Indian Affairs (BIA). In a clear violation of the government-to-government relationship between tribal nations and the federal government, the Bush Administration is attempting to reorganize the BIA without sufficient consultation with tribes. Indian educators are very concerned about the impact reorganization will have on the Office of Indian Education Programs. Specifically, they are concerned about current proposals to reduce or completely reassign education line officers, the individuals responsible for overseeing BIA funding for local school districts, and give the Secretary of Education the authority to close or consolidate BIA-funded schools without the consent of tribal governments.

These proposed changes could negatively impact the level of service provided to many schools, making it more difficult for them to meet the requirements of NCLB. In addition, NCLB clearly states that tribes have the right to approve the closing or consolidation of BIA-funded schools. The Department of Education should construct and conduct an inclusive consultation process with tribes on what is needed to improve BIA schools.

Early Childhood Development Tribal Head Start. Head Start provides early childhood education and services, including health, nutrition, social and behavioral development, for low-income preschool children and their families. This program has been extremely successful in Indian Country, but improvements are still needed. Increased funding for transportation services, professional development, training, technical assistance, and upgrading Head Start facilities would help to bolster the program in Indian Country.

Despite its documented success, President Bush has made two attempts to undermine Head Start during this Administration. Many tribal Head Start and Indian education organizations joined Senate Democrats in opposing and successfully defeating the President's ill-conceived proposals to block grant Head Start funding to states, which would likely result in less tribal control. The President also proposed to shift the program from the Department of Health and Human Services to the Department of Education, which could elevate the academic component of Head Start at the expense of the developmental and health services that are a key part of the program. The federal government must recognize tribal sovereignty when making proposals to change programs that serve tribal communities.

Higher Education and Tribal Colleges. Though only in existence for the last 30 years, tribal colleges and universities (TCUs) have arguably done more to improve the quality of life on reservations than any other institution by providing opportunities for lifelong learning and creating an educated workforce. Today, there are 34 tribally controlled universities and universities throughout the nation. Before the tribal college movement began, only six or seven out of every 100 Native American students attended college and even fewer received a degree. Studies now show that 91 percent of 1998 tribal college and university graduates are working or pursuing additional education one year after graduating.

Since tribal institutions are located on tribal lands and have culturally relevant curricula, often focused on a tribe's particular philosophy, culture, language and economic needs, they have a high success rate in educating Native American people. The unemployment status of recently college educated Native Americans is substantially lower, 15 percent, compared to 55 percent on many reservations overall. In addition, many tribal colleges and universities serve a significant number of non-Indian students, proving to be an asset to surrounding reservation communities as well.

Higher Education Act. Congress will work to reauthorize the *Higher Education Act* (HEA) during the 109th Congress. Tribal colleges will push to include the following provisions in the reauthorization:

- Simplify the process of applying for federal institutional support for TCUs;
- Increase the budget authorization levels; and
- Make sure Native American students have fair access to TRIO and campus-based student aid programs like work-study.

The HEA provides two key funding streams for TCUs. Title III, Part A, Section 316, “Strengthening Tribal Colleges” (P.L. 105–244) provides funds to support basic enhancements to infrastructure, faculty, and curriculum, and provide vital services. The *Tribally Controlled College or University Assistance Act* (P.L. 95–471) provides funding for institutional operations. Funding for institutional operations is one of the most critical issues for the nation’s TCUs. Increased funding is essential to address the growing need for technical assistance; the need to keep pace with the mounting research, data collection, and assessment needs; and escalating reporting and accountability requirements.

Strengthening and Expanding TCU Infrastructure and Construction. The nation’s tribal colleges and universities are trying to expand their opportunities for infrastructure and facilities construction. Many of these colleges have limited classroom space and no student/faculty housing or student recreation facilities. Insufficient funding for TCU infrastructure remains a critical problem, especially given the record student enrollment TCUs are now experiencing.

Senate Democratic Leader Daschle has been leading an effort (joined by other Senators with tribal colleges in their states) to obtain approximately \$15.5 million total in four spending bills (Labor-HHS, VA-HUD, Defense, Agriculture) for facilities improvement, repair, and computer equipment. Since *Fiscal Year 2001*, these funds have made college campus expansions across Indian Country possible.

Teacher Recruitment and Retention. Senator Daschle has introduced the *Tribal Colleges and Universities Teacher Loan Forgiveness Act* (S. 378) to provide loan forgiveness to individuals who commit to teach for up to five years in one of the 34 tribal colleges nationwide. Individuals who have Perkins, Direct, or Guaranteed loans may qualify to receive up to \$15,000 in loan forgiveness. Senate Democrats are working to add this program, which will provide TCUs help in attracting qualified teachers, to the HEA bill.

Senate Democrats recognize that TCUs are the hubs of their communities. They provide educational opportunity, workforce development, and empowerment of Indian people through advancement and self-determination. TCUs have paid significant dividends in terms of employment, education, and economic development in Indian Country. Senate Democrats are committed to continuing to bring quality education to thousands of Native Americans and making a significant investment in these important institutions.

Welfare Reform in Indian Country

The incidence of poverty in tribal areas is twice as high as poverty in the U.S. population as a whole. Twenty-six percent of Native Americans have extremely low incomes, and 12 of the top 50 poorest counties in the U.S. have significant Indian populations. In 1996, Congress enacted the *Personal Responsibility and Work Opportunity Act*, which established the *Temporary Assistance for Needy Families (TANF)* program and made fundamental changes in federal welfare programs. Among its more significant provisions, it required able-bodied parents to engage in work activities to qualify for cash welfare payments. For the first time, it gave tribes the option to receive TANF funds to run their own welfare programs. More than 30 tribes are now running TANF programs.

Tribal TANF. TANF is up for reauthorization. The President has proposed to make a number of controversial changes including:

- Increasing the work participation requirements for parents from 30 to 40 hours. Mothers with children under the age of 6 would be required to increase their work effort from 20 to 40 hours.
- Reducing the number of activities, including education and training, that would count as work.
- Providing no new funding for child care despite significant increases in work requirements.

The House has passed a bill that largely tracks the President’s proposal. The Senate Finance Committee has passed a more moderate bill. The Senate bill authorizes—but provides no actual funding—to help tribes increase their capacity to run TANF programs.

The National Congress of American Indians (NCAI) describes welfare reform as a vehicle for strengthening tribal families, protecting the interests of tribal children, promoting family self-sufficiency, substantially reducing dependence on public assistance, and developing economically prosperous and culturally thriving tribal communities. NCAI supports shifting the focus

from promoting marriage to reducing child poverty and increasing family income, strengthening the safety net for low-income working families, increasing TANF funds to facilitate job promotion and retention, and providing comprehensive transition services. During the Senate Finance Committee markup, Senate Democrats fought to strengthen TANF by offering amendments that would have increased funding for child care and other work supports.

Last year, Senators Baucus, Daschle, and Johnson introduced the *American Indian Welfare Reform Act*, a bill specifically designed to improve assistance for Native Americans. That bill includes provisions to strengthen the ability of tribes to deliver social services and to fund economic development on reservations. Floor consideration of the TANF reauthorization will provide another opportunity to improve the provisions affecting Native American communities.

Children's Issues

Child Welfare. During the period from about 1870 to 1970, the federal government removed Indian children from their homes and placed them in off-reservation boarding schools, often hundreds of miles away. This was done to purge children of their native language and culture and to “civilize” them. A popular credo of the time was “Kill the Indian, save the man.” To this day, Indian children suffer some of the highest rates of abuse, neglect, victimization, poverty, and out-of-home placements.

Unfortunately, the child welfare systems serving many children in tribal areas are inferior to the systems serving non-reservation children, due to inequities in federal child welfare laws. When children are placed in state-run foster care, the federal government, through Title IV-E of the *Social Security Act*, provides funds to foster families to assist with the cost of food, shelter, clothing, daily supervision, and school supplies. Additionally, states receive funding for administrative training and data collection.

Native American children who are placed in foster care by tribal courts do not receive the type of foster care, adoptive services, and assistance to which all other income-eligible children are entitled. Some tribes have entered into agreements with their states to run IV-E programs, but these arrangements are the exception. While states receive federal money for administration and training, most tribes receive no funding from the states to train tribal social workers and foster and adoptive parents. The tribal community supports S. 331, a bipartisan bill introduced by Senator Daschle to allow tribes to be treated like a state when they choose to run their own IV-E programs. The bill would extend Title IV-E entitlement protections to children placed by tribal agencies in foster and adoptive homes as well as authorize tribal governments to receive direct funding from the Department of Health and Human Services for administration of approved IV-E programs.

The Administration has proposed to allow states to choose to receive “flexible funding” for foster care. As part of this proposal tribes would be provided with \$30 million in block grants for child welfare programs, but they would still not have access to the same options as state governments. States could either opt into a new, capped foster care program or continue to access the current open-ended foster care and adoption assistance program. Under the Administration’s proposal, tribes would only have access to capped funding for foster care.

Domestic and Family Violence. The Department of Justice reports that American Indians experience higher rates of domestic violence and related crimes than other racial groups. The prevalence of unemployment and alcoholism are large contributing factors to this problem. Because of the stigma associated with domestic and family violence and the lack of understanding among law enforcement and other parts of the legal system, these crimes go unreported and unprosecuted. Senators Daschle, Leahy, and Biden have worked in recent years to help address the issue of family violence by supporting passage of the *Violence Against Women Act* and providing funding for domestic violence shelters, child advocacy centers, and visitation centers. The *Violence Against Women Act* is up for reauthorization this year and will likely have an expanded tribal role in the next Congress, especially for child advocacy.

Fetal Alcohol Syndrome. Fetal Alcohol Syndrome (FAS), which is 100 percent preventable, disproportionately affects Native Americans. The Four-State Fetal Alcohol Syndrome Consortium has made tremendous strides in coordinating resources and information across a large region to reduce the condition and its effects. The Consortium is located at the University of South Dakota Medical School and serves FAS programs in South Dakota, North Dakota, Minnesota, and Montana. Consortium

successes include a direct intervention demonstration program that provided 465 women with support services to keep them from drinking alcohol during their pregnancy. The *Substance Abuse and Mental Health Services Act* (SAMHSA), which provides funding for this project, will expire this year, and Congress is expected to reauthorize it in the 109th Congress.